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DEPARTMENT OF COMMERCE

International Trade Administration

(A-851-803)

Grain-Oriented Electrical Steel from the Czech Republic: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that grain-oriented electrical steel (GOES) from the Czech Republic is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). In addition, we determine that critical circumstances exist with respect to imports of the subject merchandise from the Czech Republic. The period of investigation (POI) is July 1, 2012, through June 30, 2013. The final dumping margins of sales at LTFV are listed below in the “Final Determination” section of this notice.

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Stephen Bailey at (202) 482-0193 or Dennis McClure at (202) 482-5973; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2014, the Department published the Preliminary Determination of sales at LTFV of GOES from the Czech Republic.¹ The following events occurred since the Preliminary Determination was issued.

In May 2014, the Department verified the sales data submitted by ArcelorMittal Frydek-Mistek (AMFM) and its U.S. affiliate, ArcelorMittal International America LLC, in accordance with section 782(i) of the Act. We also issued a supplemental cost of production (COP) questionnaire to AMFM on May 9, 2014, and received the response to this supplemental questionnaire on June 3, 2014.

In June 2014, we verified the COP information submitted by AMFM, and we attempted to verify the sales information submitted by Sujani Enterprises, Ltd. (Sujani), in accordance with section 782(i) of the Act.

We invited interested parties to comment on the Preliminary Determination. On July 28 and August 4, 2014, the domestic industry,² AMFM, and Sujani submitted case and rebuttal briefs, respectively.

Scope of the Investigation

The scope of the investigation covers GOES, which is a flat-rolled alloy steel product containing by weight specific levels of silicon, carbon, and aluminum. For a complete description of the scope of the investigation, see Appendix I of this notice.

¹ See Grain-Oriented Electrical Steel From the Czech Republic: Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 79 FR 26717 (May 9, 2014) (Preliminary Determination).

² The domestic industry includes AK Steel Corporation, Allegheny Ludlum, LLC, and the United Steelworkers (*i.e.*, the parties filing the petition), as well as one additional domestic interested party, the International Union, United Automobile, Aerospace, and Agricultural Implemental Workers of America (UAW).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and it is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, in May and June 2014, we verified the sales and cost information submitted by AMFM for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by AMFM.³

In addition, as provided in section 782(i) of the Act, in June 2014, we also attempted to verify the sales information submitted by Sujani, using standard verification procedures.⁴

³ See Memorandum to the File from Stephen Bailey and Dennis McClure, Senior Analysts, entitled "Verification of ArcelorMittal International America LLC in the Less-Than-Fair-Value Investigation of Grain-Oriented Electrical Steel from the Czech Republic," dated June 11, 2014; Memorandum to the File from Stephen Bailey and Dennis McClure, Senior Analysts, entitled "Verification of Sales Response of ArcelorMittal Frýdek-Místek in the Less-Than-Fair-Value Investigation of Grain-Oriented Electrical Steel from the Czech Republic," dated July 3, 2014; and Memorandum to the File from Christopher J. Zimpo, Senior Accountant, entitled "Verification of Cost Response of ArcelorMittal Frýdek-Místek ("AMFM") in the Antidumping Duty Investigation of Grain-Oriented Electrical Steel from the Czech Republic," dated July 18, 2014.

⁴ See Memorandum to the File from Dennis McClure, Senior Analyst, and Stephen Banea, Analyst, Office II, AD/CVD Operations, entitled, "Verification of Sujani Enterprises, Inc. in the Less-Than-Fair-Value Investigation of Grain-Oriented Electrical Steel from the Czech Republic," dated July 16, 2013 (Sujani Sales Verification Report).

However, as noted in the Sujani Sales Verification Report, Sujani was unable to substantiate the data in its accounting system using independent sources, and it withheld information when requested by the Department's verifiers. As a consequence, we find that Sujani's reported data is unverifiable, and so incomplete that it cannot serve as a reliable basis for reaching a determination in this investigation.⁵

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculation for AMFM. For a discussion of these changes, see the "Margin Calculations" section of the Issues and Decision Memorandum.

With respect to Sujani, as noted in the "Verification" section above, we found that Sujani's reported sales information could not be verified. As a consequence, for purposes of the final determination, we find that necessary information is not available on the record, and that Sujani withheld information requested by the Department, significantly impeded the proceeding, and provided information that could not be verified, within the meaning of sections 776(a)(1) and 776(a)(2)(A), (C), and (D) of the Act. Furthermore, we find that Sujani failed to cooperate by not acting to the best of its ability in this proceeding because it failed to provide complete information at the Department's request, although it possessed this information. Thus, pursuant to section 776(b) of the Act and 19 CFR 351.308(a), and consistent with sections 782(e)(2) and (3) of the Act, we have based Sujani's dumping margin on total adverse facts available (AFA). For further discussion, see Issues and Decision Memorandum at Comment 11.

"All Others" Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins

⁵ See sections 782(e)(2) and (3) of the Act.

established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. In the Preliminary Determination, the Department calculated the “all others” rate based on the average of AMFM’s and Sujani’s margins. In light of the Department’s use of total AFA for Sujani for purposes of this final determination, Sujani’s rate is no longer appropriate for use in calculating the “all others” rate. Therefore, the Department has assigned AMFM’s weighted-average dumping margin of 13.76 percent to all other entities not individually examined.

Final Determination

The final weighted-average dumping margins are as follows:

Manufacturer/exporter	Dumping Margin (Percent)
ArcelorMittal Frydek-Mistek	13.76
Sujani Enterprises, Ltd.	35.93
All Others	13.76

Final Determination of Critical Circumstances

For AMFM and the companies covered by the all others rate, we made no changes to our critical circumstances analysis announced in the Preliminary Determination and described in the “Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Grain-Oriented Electrical Steel from the Czech Republic.”⁶ Thus, pursuant to 735(a)(3) of the Act, we continue to find that critical circumstances do not exist with respect to

⁶ See Preliminary Determination, 79 FR at 26717, and accompanying Preliminary Issues and Decision Memorandum at 16-18.

imports of GOES from the Czech Republic from AMFM and the companies covered by the all others rate.

For Sujani, because we now find it to be uncooperative, we are determining for Sujani, as AFA, a final dumping margin of 35.93 percent, which is the highest model-specific margin calculated for AMFM. In performing its critical circumstances analysis, the Department normally considers margins of 25 percent or more for export price sales and 15 percent or more for constructed export price sales sufficient to impute importer knowledge of sales at LTFV.⁷ Because Sujani's final dumping margin exceeds the threshold sufficient to impute knowledge of dumping, this margin provides a sufficient basis for imputing knowledge of sales of subject merchandise at LTFV to the importers, as set forth in section 735(a)(3)(ii) of the Act.

In determining whether an importer knew or should have known that there was likely to be material injury caused by reason of such imports, the Department normally will look to the preliminary injury determination of the International Trade Commission (ITC).⁸ If the ITC finds a reasonable indication of material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports.⁹ Here, the ITC found that "there is a reasonable indication that

⁷ See, e.g., Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Determination of Critical Circumstances, 67 FR 6224, 6225 (February 11, 2002) (Steel Wire Rod Preliminary Determination), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Moldova, 67 FR 55790 (Steel Wire Rod Moldova Final Determination); Affirmative Preliminary Determination of Critical Circumstances: Magnesium Metal from the People's Republic of China, 70 FR 5606, 5607 (February 3, 2005) (Magnesium Metal Preliminary Critical Circumstances Determination), unchanged in Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal From the People's Republic of China, 70 FR 9037 (Magnesium Metal Final Determination) (February 24, 2005).

⁸ See, e.g., Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation, 75 FR 24572, 24573 (May 5, 2010), unchanged in Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry, 75 FR 30377 (June 1, 2010).

⁹ See, e.g., Steel Wire Rod Preliminary Determination, unchanged in Steel Wire Rod Moldova Final

an industry in the United States is materially injured by reason of imports from China, Czech Republic, Germany, Japan, Korea, Poland, and Russia of grain-oriented electrical steel, provided for in subheadings 7225.11.00, 7226.11.10, and 7226.11.90 of the Harmonized Tariff Schedule of the United States....”¹⁰ Therefore, the ITC’s preliminary injury determination in this investigation is sufficient to impute knowledge of the likelihood of material injury.

Section 351.206(h)(1) of the Department’s regulations provides that, in determining whether imports of the subject merchandise were “massive,” the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that, “{i}n general, unless the imports during the ‘relatively short period’ ...have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive.” It is the Department’s practice to conduct its massive imports analysis based on the experience of investigated companies, using the reported monthly shipment data for the base and comparison periods.¹¹ However, as noted above, we determined that Sujani has not acted to the best of its ability in responding to our requests for information.¹² Therefore, the Department determines

Determination; and Magnesium Metal Preliminary Critical Circumstances Determination, unchanged in Magnesium Metal Final Determination.

¹⁰ See Grain-Oriented Electrical Steel From China, Czech Republic, Germany, Japan, Korea, Poland, and Russia; Determinations, 78 FR 70574 (November 26, 2013).

¹¹ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China, 73 FR 31970, 31972-31973 (June 5, 2008); and Small Diameter Graphite Electrodes from the People’s Republic of China, 74 FR 2049, 2052-2053 (January 14, 2009) (SDGE Final Determination).

¹² See the “Verification” section of this memorandum, above.

that the use of adverse facts available is warranted. Accordingly, we find that there were massive imports of subject merchandise from Sujani, pursuant to our practice.¹³

Given the analysis above, we determine that critical circumstances exist with respect to imports of GOES from Sujani.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of GOES from the Czech Republic, as described in Appendix I of this notice, for AMFM and the companies covered by the all others rate which were entered, or withdrawn from warehouse, for consumption on or after May 9, 2014, the date of publication of the preliminary determination of this investigation in the Federal Register. For entries made by Sujani, in accordance with section 735(c)(4)(B) of the Act, we will instruct CBP to suspend liquidation of all appropriate entries of GOES from the Czech Republic, as described in Appendix I of this notice which were entered, or withdrawn from warehouse, for consumption on or after February 8, 2014, which is 90 days prior to the date of publication of the preliminary determination of this investigation in the Federal Register.

Further, the Department will instruct CBP to require a cash deposit equal to the amount by which normal value exceeds U.S. price as follows: (1) for the mandatory respondents listed above, the cash deposit rate will be equal to the dumping margin which the Department

¹³ See SDGE Final Determination, 74 FR at 2052-2053.

determined in this final determination; (2) if the exporter is not a mandatory respondent identified in this investigation, but the producer is, the cash deposit rate will be the rate established for the producer of the subject merchandise; and (3) the cash deposit rates for all other producers or exporters will be 13.76 percent. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of GOES from the Czech Republic no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (APO)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

September 22, 2014
Date

Appendix I – Scope of the Investigation

The scope of this investigation covers grain-oriented silicon electrical steel (GOES). GOES is a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths. The GOES that is subject to this investigation is currently classifiable under subheadings 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive. Excluded are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the HTSUS as a transformer part (i.e., laminations).

Appendix II – List of Topics Discussed in the Issues and Decision Memorandum

General Comments

1. Affiliation between AMFM and Sujani
2. The Knowledge Test

Company- Specific Comments

AMFM

3. Home Market Sale Outside the Ordinary Course of Trade
4. Indirect Selling Expenses
5. Packing Expenses
6. CEP Offset
7. Electricity
8. Rolls and Roller Adjustment to Cost of Manufacturing
9. Verification Changes to AMFM's Cost Data
10. Profit

Sujani

11. Total Facts Available for Sujani
12. Other Sujani Adjustments

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